

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

KEITH JAMES FORTUNE,

Petitioner,

vs.

MONTANA DEPARTMENT OF  
CORRECTIONS,

Respondent.

CV 20-128-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on August 19, 2020. (Doc. 2). The Magistrate recommended the Court dismiss Fortune's petition for habeas corpus because he failed to identify a violation of federal law and failed to exhaust other remedies. (Doc. 2 at 5).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 2) are ADOPTED IN FULL.

Fortune's petition (Doc. 1) is DISMISSED without prejudice for failure to exhaust.

The Clerk of Court is directed to enter a judgment of dismissal.

A certificate of appealability is denied.

DATED this 14<sup>th</sup> day of September, 2020.

  
Susan P. Watters  
SUSAN P. WATTERS  
United States District Judge